

REMARKS

Initially, applicant would like to thank Examiner Rowan for granting an interview and for his time spent in the interview.

Claims 24-43 were previously pending in the application. Claims 25, 36, 37 and 41-43 are canceled, leaving claims 24, 26-35 and 38-40 for consideration.

Applicant would also like to thank the Examiner for indicating allowable subject matter in claim 25. In reliance thereon, claim 24 has been amended to include the subject matter of claim 25.

Claims 24-42 are rejected as unpatentable over EBERT 3,028,688 in view of HUNZIKER 3,543,573. This rejection is respectfully traversed.

As set forth at the interview, claim 24 provides that the testing pipe is arranged substantially parallel to and vertically above the flow pipe. Claim 24 further provides that first and second connection members are arranged at both ends of the flow and testing pipes. The connection members each comprise a stilling basin. Claim 33 which depends from claim 24 has been rewritten in independent form and includes the above-noted features and in addition includes the feature that the testing pipe decreases in diameter along a length of the testing pipe in a direction of fluid flow.

As noted in the interview, the structural difference of the testing pipe arranged substantially parallel to and vertically above the flow pipe in combination with the connection members comprising a stilling basin and further in combination with the testing pipe decreasing in diameter along the length of the testing pipe in a direction of fluid flow appears to distinguish over the references.

Specifically, as pointed out at the interview, page 3, lines 24-33 of the present specification disclose that the testing pipe is narrow in the direction of fluid flow to prevent air bubbles generated by the control means from collecting on the walls of the pipe and to allow air exit the device through the lure tower.

As also pointed out at the interview, column 2, lines 26-50 of EBERT teach a sluiceway 33 to decrease the turbulence of the flow. Sluiceway 33 has diverging walls, which as disclosed on column 2, lines 46-49 of EBERT, are used to slow down velocity and turbulence to a steady flow which is necessary for proper operation of the tank.

Accordingly, the diverging walls of EBERT are necessary for the proper operation of the tank of EBERT and as such EBERT teaches away from a (converging) testing pipe that decreases in diameter along the length of the testing pipe in a direction of fluid flow. As pointed out in the interview,

HUNZIKER does not overcome this shortcoming of EBERT. In addition, HUNZIKER teaches increasing the turbulence for testing, not providing a stilling basin.

As further pointed out in the interview, column 2, lines 68-71 of EBERT teach increasing the velocity in turnabout area 44. As set forth at the interview, such increase in velocity would not be recognized by one of ordinary skill in the art as a function of a stilling basin. As the references neither teach a stilling basin nor a testing pipe that decreases in diameter along the length of the testing pipe in a direction of fluid flow, the rejection cannot be maintained and withdrawal of the rejection is respectfully requested.

Claim 34 has been amended to include the subject matter of claim 37 and also provides a testing pipe decreasing in diameter along the length of the testing pipe in a direction of fluid flow. Claim 34 further provides that the first and second connection members each comprise a stilling basin at the closed ends. The analysis above regarding claim 33 are equally applicable to claim 34.

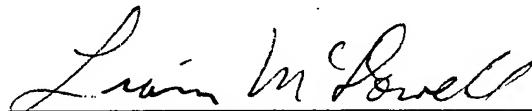
In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

Application No. 10/088,116
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The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17.

Respectfully submitted,

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